

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 132

HOUSE BILL 2023

AN ACT

AMENDING SECTION 38-738, ARIZONA REVISED STATUTES; AMENDING SECTION 38-738, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-738, Arizona Revised Statutes, is amended to
3 read:

4 38-738. Adjustment and refund

5 A. If more than the correct amount of employer or member contributions
6 is paid into ASRS by an employer through a mistake of fact, ASRS shall return
7 those contributions to the employer if the employer requests return of the
8 contributions within one year after the date of overpayment. ASRS shall not
9 pay an employer earnings attributable to excess contributions but shall
10 reduce the amount returned to an employer pursuant to this section by the
11 amount of losses attributable to the excess contributions.

12 B. If less than the correct amount of employer or member contributions
13 is paid into ASRS by an employer, the following apply:

14 1. The member shall pay an amount that is equal to the amount that
15 would have been paid in member contributions for the period in question. The
16 member's payments shall be made as provided in section 38-747. IF THE MEMBER
17 DOES NOT MAKE THE PAYMENT WITHIN NINETY DAYS OF BEING NOTIFIED BY ASRS THAT
18 THE EMPLOYER HAS PAID ALL AMOUNTS DUE FROM THE EMPLOYER, THE UNPAID AMOUNT
19 ACCRUES INTEREST UNTIL THE AMOUNT IS PAID IN FULL. THE MEMBER IS RESPONSIBLE
20 FOR PAYMENT OF THE UNPAID AMOUNT AND INTEREST. THE INTEREST RATE IS THE
21 INTEREST RATE ASSUMPTION THAT IS APPROVED BY THE BOARD FOR ACTUARIAL
22 EQUIVALENCY FOR THE PERIOD IN QUESTION TO THE DATE PAYMENT IS RECEIVED.

23 2. If the member contributions to ASRS made pursuant to this
24 subsection exceed the limits prescribed in section 38-747, subsection E when
25 taking into account other annual additions of the member for the limitation
26 year, the amount to be paid by the member shall be adjusted as provided in
27 section 38-747. FOR THE PURPOSES OF THIS SUBSECTION, "LIMITATION YEAR" HAS
28 THE SAME MEANING PRESCRIBED IN SECTION 38-769.

29 3. The employer shall pay to ASRS an amount equal to the amount that
30 would have been paid in employer contributions for the period in question
31 together with accumulated interest that would have accrued on both the
32 employer and member contributions due ~~at the interest rate assumption~~
33 ~~approved by the board for actuarial equivalency for the period in question~~
34 ~~to the date payment is received.~~ IF THE EMPLOYER DOES NOT REMIT FULL PAYMENT
35 OF ALL EMPLOYER CONTRIBUTIONS AND ALL INTEREST DUE WITHIN NINETY DAYS OF
36 BEING NOTIFIED BY ASRS OF THE AMOUNT DUE, THE UNPAID AMOUNT ACCRUES INTEREST
37 UNTIL THE AMOUNT IS PAID IN FULL. THE INTEREST RATE IS THE INTEREST RATE
38 ASSUMPTION THAT IS APPROVED BY THE BOARD FOR ACTUARIAL EQUIVALENCY FOR THE
39 PERIOD IN QUESTION TO THE DATE PAYMENT IS RECEIVED.

40 4. On satisfaction of the requirements of this subsection, the
41 member's salary history on the records of ASRS shall be adjusted and any
42 additional service credits acquired by the member shall be reinstated.

43 5. If the member retires before all contributions are made pursuant
44 to this subsection, the member's benefits shall be calculated only based on
45 the contributions actually made.

1 6. Annual additions shall be determined as provided in section 38-747,
2 subsection 0.

3 ~~7. "Limitation year" has the same meaning prescribed in section~~
4 ~~38-769.~~

5 7. THE INITIATOR OF THE REQUEST FOR CORRECTION OF SALARY HISTORY AND
6 SERVICE CREDITS ON RECORDS OF ASRS IS RESPONSIBLE FOR PROVIDING CREDIBLE
7 EVIDENCE OF PAST EMPLOYMENT AND COMPENSATION TO ASRS IN A FORM OR FORMS THAT
8 WOULD LEAD A REASONABLE PERSON TO CONCLUDE THAT A PERIOD OF EMPLOYMENT
9 OCCURRED UNDER CIRCUMSTANCES THAT MADE THE EMPLOYEE ELIGIBLE FOR MEMBERSHIP
10 IN ASRS DURING THAT PERIOD. A DETERMINATION OF ELIGIBILITY BY ASRS MAY BE
11 APPEALED TO THE ASRS BOARD IN A MANNER PRESCRIBED BY THE BOARD.

12 Sec. 2. Section 38-738, Arizona Revised Statutes, as amended by
13 section 1 of this act, is amended to read:

14 38-738. Adjustment and refund

15 A. If more than the correct amount of employer or member contributions
16 is paid into ASRS by an employer through a mistake of fact, ASRS shall return
17 those contributions to the employer if the employer requests return of the
18 contributions within one year after the date of overpayment. ASRS shall not
19 pay an employer earnings attributable to excess contributions but shall
20 reduce the amount returned to an employer pursuant to this section by the
21 amount of losses attributable to the excess contributions.

22 B. If less than the correct amount of employer or member contributions
23 is paid into ASRS by an employer, the following apply:

24 1. The member shall pay an amount that is equal to the amount that
25 would have been paid in member contributions for the period in question. The
26 member's payments shall be made as provided in section 38-747. If the member
27 does not make the payment within ninety days of being notified by ASRS that
28 the employer has paid all amounts due from the employer, the unpaid amount
29 accrues interest until the amount is paid in full. The member is responsible
30 for payment of the unpaid amount and interest. The interest rate is the
31 interest rate assumption that is approved by the board for actuarial
32 equivalency for the period in question to the date payment is received.

33 2. If the member contributions to ASRS made pursuant to this
34 subsection exceed the limits prescribed in section 38-747, subsection E when
35 taking into account other annual additions of the member for the limitation
36 year, the amount to be paid by the member shall be adjusted as provided in
37 section 38-747. For the purposes of this subsection, "limitation year" has
38 the same meaning prescribed in section 38-769.

39 3. The employer shall pay to ASRS an amount equal to the amount that
40 would have been paid in employer contributions for the period in question
41 together with accumulated interest that would have accrued on both the
42 employer and member contributions due. If the employer does not remit full
43 payment of all employer contributions and all interest due within ninety days
44 of being notified by ASRS of the amount due, the unpaid amount accrues
45 interest until the amount is paid in full. The interest rate is the interest

1 rate assumption that is approved by the board for actuarial equivalency for
2 the period in question to the date payment is received.

3 4. On satisfaction of the requirements of this subsection, the
4 member's salary history on the records of ASRS shall be adjusted and any
5 additional service credits acquired by the member shall be reinstated.

6 5. If the member retires before all contributions are made pursuant
7 to this subsection, the member's benefits shall be calculated only based on
8 the contributions actually made.

9 6. Annual additions shall be determined as provided in section 38-747,
10 subsection 0.

11 7. The initiator of the request for correction of salary history and
12 service credits on records of ASRS is responsible for providing credible
13 evidence of past employment and compensation to ASRS in a form or forms that
14 would lead a reasonable person to conclude that a period of employment
15 occurred under circumstances that made the employee eligible for membership
16 in ASRS during that period. A determination of eligibility by ASRS may be
17 appealed to the ASRS board in a manner prescribed by the board.

18 C. SUBSECTION B OF THIS SECTION APPLIES TO ELIGIBLE VERIFIED SERVICE
19 THAT OCCURRED LESS THAN OR EQUAL TO FIFTEEN YEARS BEFORE THE DATE THE
20 INITIATOR OF THE REQUEST FOR CORRECTION OF SALARY HISTORY AND SERVICE CREDITS
21 ON THE RECORDS OF ASRS PROVIDES ASRS WITH CREDIBLE EVIDENCE IN WRITING THAT
22 LESS THAN THE CORRECT AMOUNT OF CONTRIBUTIONS WERE PAID INTO ASRS OR ASRS
23 OTHERWISE DETERMINES THAT LESS THAN THE CORRECT AMOUNT OF CONTRIBUTIONS WERE
24 MADE.

25 D. ELIGIBLE VERIFIED SERVICE THAT IS MORE THAN FIFTEEN YEARS BEFORE
26 THE DATE THE INITIATOR OF THE REQUEST FOR CORRECTION OF SALARY HISTORY AND
27 SERVICE CREDITS ON THE RECORDS OF ASRS PROVIDES ASRS WITH CREDIBLE EVIDENCE
28 IN WRITING THAT LESS THAN THE CORRECT AMOUNT OF CONTRIBUTIONS WERE PAID INTO
29 ASRS OR ASRS OTHERWISE DETERMINES THAT LESS THAN THE CORRECT AMOUNT OF
30 CONTRIBUTIONS WERE MADE IS CONSIDERED PUBLIC SERVICE CREDIT. THE MEMBER MAY
31 PURCHASE THIS SERVICE PURSUANT TO SECTION 38-743.

32 Sec. 3. Effective date

33 Section 2 of this act is effective from and after June 30, 2004.

APPROVED BY THE GOVERNOR MAY 1, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2003.

Passed the House February 4, 2003,

Passed the Senate April 10, 2003

by the following vote: 56 Ayes,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting
2 vacancies

0 Nays, 2 Not Voting

[Signature]
Speaker of the House
Pro Tempore
Norman L. Moore
Chief Clerk of the House

[Signature]
President of the Senate
Channing Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2023

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 28, 2003,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Jake Elabe
Speaker of the House
Spencer L. Spore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28 day of April, 2003,

at 2:30 o'clock P M.

Andres Ramirez
Secretary to the Governor

Approved this 1 day of

May, 2003,

at 5⁰⁰ o'clock P M.

Jt Nye
Governor of Arizona

H.B. 2023

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 2003,

at 3:32 o'clock P M.

Janet K. Brewer
Secretary of State